HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO: 23997 of 2002

Dated: 25-07-2007

Between:

V.Rama Krishna

..... PETIT

AND

The State Transport Appellate Tribunal,
Hyderabad,
Rep., byits Secretary and 2 others.

.....RESPONI

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 23997 of 2002

O R D E R:

This writ petition is filed for a writ of certiorari to quash the order dated 01-03-2002 passed by the first respondent-State Transport Appellate Tribunal (for short 'the Tribunal') in A.P.No.513 of 1999.

The petitioner made an application before the second respondent (The Transport Commissioner, Andhra Pradesh, Hyderabad) to grant permission as a prelude to obtain pucca stage carriage permit on the route Mandapata TSR to Mandapeta Town Hall to Alamuru Santhoshimatha Temple via Yedida, Mothukuru, Narsipudi, Navabpeta, Panikuru, Kalavacherla junction. The second respondent, evidently, vide his order in R.No.87828/E3/99, dated 13-07-1999, rejected the petitioner's application. Questioning the said order, the petitioner filed A.P.No.513 of 1999 before the Tribunal. The said appeal having been dismissed by the Tribunal, vide order dated 01-03-2002, the present writ petition is filed.

Heard Smt.M.Vinobha Devi, learned counsel for the petitioner and Sri K.Srinivasa Rao, learned Standing counsel for A.P.S.R.T.C.

Smt. Vinobha Devi submitted that the order of the second respondent, as confirmed by first respondent, suffers from illegality. She submitted that under Rule 258(2)(ii) of the Andhra Pradesh Motor Vehicles Rules, 1989 (for short 'the Rules'), if a town service route extends more than 8 kilometers beyond the limits of municipality or town from which it starts, no permit can be granted by the Regional Transport Authority without specific permission of the Transport Commissioner. She submitted that as the Rules do not stipulate any conditions for exercise of the power by the Transport Commissioner, he is vested with very wide discretion to grant permission and that the Transport Commissioner failed to exercise the discretion vested in him in refusing to grant permission. Learned counsel also submitted that the total length of the route on which the petitioner applied for permit is 6.15 kilometers and that though two approved schemes overlap the proposed route, each of the two schemes considered independently do not overlap 8 kilometers and the order

of the Tribunal in upholding the order of the Transport Commissioner is illegal.

Per contra, Sri K.Srinivasa Rao, learned standing counsel, submitted that as against the total length of the proposed route of 16.15 kilometers, a distance of 1.5 kilometers falls within the town limits and rest of the entire route, on which the petitioner proposed to ply his vehicle, falls beyond the town limit. He submits that in the guise of the application for town service, the petitioner is virtually seeking to ply maffusil service and that therefore, the second respondent was justified in refusing to exercise the power vested in him under Section 258(2)(ii) of the Rules.

In support of his contention that the applicant shall not be allowed to ply the vehicles as maffusil service in the guise of obtaining town service permits, he relied upon the Judgment of the Supreme Court in ***A.P.S.R.T.C v. State Transport Appellate Tribunal and others***[1]. The learned standing counsel also submitted that the contention of the learned counsel for the petitioner that two approved schemes cannot be considered in computing the overlapped distance in arriving at a conclusion where the proposed route overlaps the notified schemes of more than 8 kilometers has no basis and that since admittedly the proposed route overlaps to the extent of 11.6 kilometers of the approved schemes under G.O.Ms.No.784 and 268, the authorities are justified in refusing permit to the petitioner.

As regards the first contention of the learned counsel for the petitioner, Rule 258(2)(ii) reads as under:

> 258. Fixation of stages for carriages:- (1) in the case of stage carriages, the Regional Transport Authority shall, after consultation with such other authority as it may deem desirable, fix stages on all bus routes except town service. The maximum distance of each stage shall not ordinarily exceed 6.4 kilometers. When stages are so fixed, fares shall be collected according to stages.
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> Explanation: When a passenger gets into or gets down from a stage carriage at a place lying in between two stages, he shall pay the fare from the stage preceding the place where he gets into the bus to the stage succeeding the place where he gets down.
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> (2) The Regional Transport Authority shall, subject to the following restrictions, determine which are town service routes:-
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> (i) at least one terminus of every town service shall lie within the limits of a municipality or any built up place

notified in the Andhra Pradesh Gazette as 'town' for this purpose by the Regional Transport Authority concerned, with the prior concurrence of the State Transport Authority;

(ii) No route of town service shall extend more than 8 kilometers beyond the limits of the municipality or town from which it starts, provided that this restriction shall not apply to any town service routes, which were in existence on the date of coming of these rules into force or in respect of those routes for which specific permission of the Transport Commissioner is obtained;

(iii) No route shall be determined as both town ad maffusil service routes.

In ***A.P.S.R.T.C v.State Transport Appellate Tribunal*** (1 supra), the Supreme Court *inter alia* considered the power of the Transport Commissioner to grant permission in respect of town service routes where the length proposed route is beyond 8 kilometers. It is apposite to extract para 18 of the Judgment.

> "Though we do not propose to fix any specific limit up to which the Transport Commissioner can extend the town service route it must be pointed out that in no case the permission granted by the Transport Commissioner should have the effect of converting a town service route into a mafussil service route. In other words a mafussil service cannot be labeled as town service by virtue of the permission granted by the Transport Commissioner though in fact it would be a mafussil service. Apart from the above guidelines, the Transport Commissioner must also bear in mind that in the case of a route covered by a notified scheme grant of permits to any other person is barred except to the extent permitted by the scheme. The Transport Commissioner should, therefore, take care not to convert an exception into a rule. He must bear in mind the provisions of Chapter IV of the Act and see that they are not made illusory by the permission for extension of town service granted by him."

In the order of second respondent (a copy of the order was supplied during course of hearing), he has specifically referred to the aforementioned judgment of the Supreme Court. From the very fact that out of the total distance of 16.15 kilometers, a meagre distance of 1.5 kilometers falls within the municipal limits itself shows that the permit on which the petitioner sought to ply cannot be classified as town service permit. I do not therefore, see any illegality in the order of the second respondent in exercising his power under

Rule 258(2)(ii) of the Rules and on the other hand, the same is in conformity with the law declared by the Supreme Court in the aforementioned judgment.

As regards the second contention of the learned counsel for the petitioner, during the course of dictating this order she submits that she does not press the same.

In view of the same, I refrain from giving any finding on the said contention.

For the aforementioned reasons, the writ petition is dismissed. No costs.

C.V.NAGARJUNA REDDY,J

Date: 25-07-2007
KLP

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[1] AIR 1998 2621